IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

**WRIT PETITION NO.7193 OF 2005**

Central Railway Men Consumers Society Ltd. ).. Petitioners

Versus

Mukesh Madanlal Tanna ).. Respondent

Mr.Khandeparkar i/b.M/s.Khandeparkar & Associates & S.S.Kalke for the Petitioners.

Mr.B.D. Joshi for the Respondent.

**CORAM: SMT.NISHITA MHATRE, J.**

**DATED: 26TH OCTOBER 2005**

**P.C.:**

. This Petition challenges the order passed in the Darkhast proceedings taken out by the Respondent herein. The Suit filed by the Respondent was decreed on 30th April 2002. An Appeal was preferred by the Petitioners which has been dismissed on 12th January 2005. It is the case of the Petitioners that Gala No.12 constituting the suit premises has been demolished on 11th January 2005 and, therefore, the decree cannot be executed. The fact of demolition of the structure was not brought to the notice of the trial Court when the decree was passed although one year had elapsed from the alleged date of demolition. Nor was the fact of demolition brought to the notice of the Appellate Court even though the Appeal

was filed two years after the alleged demolition. In my view, the trial Court has in no way committed any error by dismissing the application of the Petitioners. The decree will be executed as decreed by the trial Court. Writ Petition dismissed.